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HOUSE BILL 838

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Al Park

AN ACT

RELATING TO DOMESTIC AFFAIRS; ALLOWING THE PARENT OF A CHILD WHO IS A VICTIM OF DOMESTIC ABUSE TO FILE FOR AN ORDER OF PROTECTION ON THE CHILD'S BEHALF.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 36-2-27 NMSA 1978 (being Laws 1909, Chapter 53, Section 26, as amended) is amended to read:

"36-2-27. PRACTICE WITHOUT ADMISSION--CONTEMPT OF COURT-- FOREIGN ATTORNEYS. -- [No] A person shall not practice law in a court of this state, except a magistrate court, nor shall a person commence, conduct or defend an action or proceeding, unless he has been granted a certificate of admission to the bar under the provisions of Chapter 36 NMSA 1978. [No] A person not licensed as provided in that chapter shall not advertise or display any matter or writing whereby the

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1 impression may be gained that he is an attorney or counselor at
2 law, ~~[or]~~ nor shall a person hold himself out as an attorney or
3 counselor at law, and all persons violating the provisions of
4 that chapter shall be deemed guilty of contempt of the court in
5 which the violation occurred, as well as of the supreme court
6 of the state; provided, however, that nothing in this section
7 shall be construed to prohibit persons residing beyond the
8 limits of this state, otherwise qualified, from assisting
9 resident counsel in participating in an action or proceeding.
10 Notwithstanding the provisions of this section, a parent may
11 file for an order of protection on behalf of a child who is a
12 victim of domestic abuse as provided in Section 40-13-3 NMSA
13 1978."

14 Section 2. Section 40-13-3 NMSA 1978 (being Laws 1987,
15 Chapter 286, Section 3, as amended) is amended to read:

16 "40-13-3. PETITION FOR ORDER OF PROTECTION--CONTENTS--
17 INDIGENT PETITIONERS--STANDARD FORMS.--

18 A. A victim of domestic abuse or, upon a finding by
19 the court that it is in the best interest of the child, the
20 parent of a child who is a victim of domestic abuse, may
21 petition the court under the Family Violence Protection Act for
22 an order of protection.

23 B. The petition shall be made under oath or shall
24 be accompanied by a sworn affidavit setting out specific facts
25 showing the alleged domestic abuse.

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1 C. The petition shall state whether any other
2 domestic action is pending between the petitioner and the
3 respondent.

4 D. If any other domestic action is pending between
5 the petitioner and the respondent, the parties shall not be
6 compelled to mediate any aspect of the case arising from the
7 Family Violence Protection Act unless the court finds that
8 appropriate safeguards exist to protect each of the parties and
9 that both parties can fairly mediate with such safeguards.

10 E. Any action brought under ~~[that]~~ the Family
11 Violence Protection Act is independent of any proceeding for
12 annulment, separation or divorce between the petitioner and the
13 respondent.

14 F. Any remedies granted are in addition to other
15 available civil or criminal remedies.

16 G. If the petition is accompanied by an affidavit
17 showing that the petitioner is unable to pay the costs of the
18 proceeding, the court may order that the petitioner be
19 permitted to proceed as an indigent without payment of court
20 costs. In determining the financial status of the petitioner
21 for the purpose of this subsection, the income of the
22 respondent shall not be considered.

23 H. Standard simplified petition forms with
24 instructions for completion shall be available to petitioners
25 not represented by counsel. Law enforcement agencies shall

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1 keep such forms and make them available upon request to victims
2 of domestic [~~violence~~] abuse. "

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